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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,180	04/26/2006	John Welin-Berger	4008069-175716	4053
23570 7590 05/11/2010 PORTER WRIGHT MORRIS & ARTHUR, LLP INTELLECTUAL PROPERTY GROUP 41 SOUTH HIGH STREET 28TH FLOOR COLUMBUS, OH 43215			EXAMINER PO, MING CHEUNG	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 05/11/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,180	<b>Applicant(s)</b> WELIN-BERGER, JOHN	
	<b>Examiner</b> MING CHEUNG PO	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-14, 18, 20-23 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 4-14, 18, 20-23 and 26-32 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Office Action Summary***

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/15/2010 has been entered.

***Office Action Summary***

2. This is response to request for continued examination filed on for application 10/577180.
3. Claims 2-14, 18, 20-23, 26-32 are pending and have been fully considered.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4, 5, 8-14, 18, 20-23 and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over SULLIVAN (U.S. 6,136,053) in view of MAY (U.S. 4,751,122).

Regarding claims 2, 4, 12, 13, and 26, SULLIVAN teaches a method and apparatus for starting fires. SULLIVAN teaches in lines 65-67 of column 1 and lines

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1-11 of column 2 that the invention is a compact, lightweight and water-proof apparatus. The apparatus is further explained in lines 12-22 of column 2 as a strip of cloth in a liquid fuel and laying one or more sources of ignition on the fuel soaked strip of cloth. The strip of cloth may be rolled into a cylinder.

SULLIVAN does not seem to explicitly state that the strip may be made of paper.

However, there is no reason to believe that the strip may not be made of paper.

It would be obvious to one of ordinary skill in the art to use paper to substitute for cloth with a reasonable expectation of success.

SULLIVAN does not seem to explicitly state a plastic strip along with the teaches in lines 30 - 34 of column 1, a pre-formed structure comprising a **paper substrate with a release coating** on one side and a waterproofing pressure sensitive adhesive membrane permanently attached to the other side. MAY further teaches in lines 55 – 57 of column 1 that a **layer of polyethylene (plastic layer)** may be applied just below the release coating.

It would be obvious to one of ordinary skill in the art to add the layer of polyethylene that MAY teaches onto the strip that SULLIVAN teaches.

The motivation to do so can be found in lines of MAY. MAY teaches in lines 8 – 10 that polyethylene is waterproof.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

SULLIVAN does not seem to explicitly state that the strips are sufficiently tightly wound that the material assembly is adapted to resist lighting by an outside fire.

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However, SULLIVAN does teach in lines 1-4 of column 2 that the strip is designed to be safe to handle.

It would be obvious to one of ordinary skill in the art that the strip when rolled into a cylinder would resist lighting by an outside fire.

Compacted cloth or paper is known to one of ordinary skill in the art to resist fire because of the unavailability of oxygen.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

SULLIVAN teaches in lines 4-11 of column 2 that the apparatus is to start a campfire, charcoal grill, wood stove or any other place where a fire starter is desired **(operable to provide an initial combustion with a generated amount of energy adapted for a subsequent secondary combustion for a lighting therefrom of an adjoining inflammable material).**

Regarding claim 5, SULLIVAN teaches in lines 30-42 of column 2 a wax such as paraffin may be used as fuel.

Regarding claims 8 and 9, that is no reason to believe that the wound up strip that SULLIVAN teaches does not have the capacity to realign somewhat after crumpling up for the formation of a ball-structure nor any reason to believe that the spiral foundation can not support pieces of firewood resting against said ball structure.

Regarding claim 10, polyethylene is known to one of ordinary skill in the art to be converted to carbon dioxide and water during combustion.

Regarding claim 11, there is no reason to believe that the material content in the

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structure of the paper strip coordinated with the thickness and selected material in the plastic strip are not mutually adapted to give a chosen balance between a structural and stability providing capacity and an energy-and power-releasing capacity generated during combustion.

Regarding claim 14, paraffin is used and can be considered to be adapted for a selected energy release depending on how much is used.

Regarding claim 18, modified SULLIVAN does not seem to explicitly teach a desiccant inserted between the paper strip and the strip of polyethylene.

However, SULLIVAN does teach in lines 4-11 of column 2 that the apparatus should be waterproof.

It would be obvious to one of ordinary skill in the art to use a desiccant since desiccants are known in the art as a method to sustain dryness.

Regarding claims 20 and 32, SULLIVAN does not seem to explicitly state that the wound roll has a central hole, from which one end portion of the coordinate strips is initially extractable.

However, SULLIVAN does show in FIG 3 the strip rolled up into a cylinder. It would be obvious to one of ordinary skill in the art that a cylinder has a central hole, from which one end of the strip may would extractable.

Regarding claim 21, there is no reason to believe that the strip of combustible material that SULLIVAN teaches may not be allotted a shape bordering on a quadratic outer shape. Furthermore, aesthetic changes that which have no mechanical function cannot be relied upon to distinguish the claimed invention form the prior art. (Please

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see MPEP 2144.04 I.)

Regarding claims 22, SULLIVAN does not seem to explicitly state the an inner end portion or pole of the coordinated strips is formed or has a tab grip able hand.

However, it would be obvious matter of design choice to have an inner end portion or pole of the coordinated strips is formed or has a tab grip able hand since applicant has not disclosed that having an inner end portion or pole of the coordinated strips is formed or has a tab grip able hand solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well without an inner end portion or pole of the coordinated strips is formed or has a tab grip able hand

Regarding claims 23, SULLIVAN does not seem to explicitly state the paper and plastic strips are allotted the same or substantially the same thickness.

However, it would be obvious matter of design choice to allot the same or substantially the same thickness since applicant has not disclosed that to allot the same or substantially the same thickness solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with not the same or substantially the same thickness

Regarding claims 27, SULLIVAN does not seem to explicitly state an article of manufacture comprising a dispenser containing a plurality of the fire kindlers.

However, it would be obvious matter of design choice to place a plurality of fire kindlers in a dispenser, since applicant has not disclosed that placing a plurality of the kindlers in a dispenser solves any stated problem or is for any particular purpose and it

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appears that the invention would perform equally well not in a dispenser with a plurality of other kindlers.

Regarding claim 28, SULLIVAN does not seem to explicitly state a package comprising a plurality of the kindlers.

However, it would be obvious matter of design choice to place a plurality of fire kindlers in a package, since applicant has not disclosed that placing a plurality of the kindlers in a package solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well not in a package with a plurality of other kindlers.

Regarding claim 29, SULLIVAN does not seem to explicitly state that the compact, helical shapes is surrounded by plastic, cardboard or paper.

However, it would be obvious matter of design choice to surround the compact kindler with plastic cardboard, or paper, since applicant has not disclosed that surrounding the compact kindler with plastic, cardboard, or paper solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well not in a package with a plurality of other kindlers.

Regarding claims 27 and 28, SULLIVAN teaches in reference claim in column 6 an apparatus comprising a strip of cloth, wherein the strip of cloth has been divided into sections by perforated lines.

It would be obvious to one of ordinary skill in the art to divide the strip of combustible material that LUDDE teaches with the perforated lines that SULLIVAN teaches to form a number of individual units.



The motivation to do so can be found in lines 19 - 22 of column 2 of SULLIVAN. SULLIVAN teaches that it is possible to detach a portion of the strip of cloth to start a fire.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Regarding claims 30 and 31, SULLIVAN further teaches in reference claim 2 that a plurality of matches is situated on the cloth.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over SULLIVAN (U.S. 6,136,053).in view of MAY (U.S. 4,751,122) and further in view of KAPLAN (U.S. 2,707,581).

The above discussion of modified SULLIVAN as applied to claims 16 – 17 and, 24 is incorporated herein by reference.

Modified SULLIVAN does not appear to disclose the strip of combustible material with the polyethylene layer have adjoining and opposite strip-allotted edges provided with one or more seals.

However, KAPLAN teaches a container formed of two sheets of plastic material with the edges sealed in lines 32 - 40 of column 1.

It would be obvious to one of ordinary skill in the art to seal the edges between the strip of combustible material and the polyethylene layer of the helical formation that modified LUDDE teaches with plastic such as taught by KAPLAN in packets.

The motivation to do so can be found in line 28 of column 1 of KAPLAN. KAPLAN teaches that the seal facilitate in stopping any possible leakages.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 2-14, 18, 20-23, 26-32 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed 02/15/2010 have been fully considered but they are not persuasive. Applicant argues that there would be no reason to combine KAPLAN with MAY and SULLIVAN because KAPLAN is not directed toward a material assembly adapted for lighting. Examiner disagrees. KAPLAN and MAY and SULLIVAN are methods of containing liquids and in a roll form. Applicant argues that SULLIVAN does not teach a wound roll that is also adapted to unwind to a non compacted state. However, SULLIVAN does teach in lines 17-22 of column 2 that the fuel soaked strip may be rolled up to form a cylinder. The cylinder can also be unwound and sections of the cloth may be detached to start a fire.

### ***Allowable Subject Matter***

9. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art, SULLIVAN does not suggest uniting a paper strip with a plastic strip using an adhesive strip. While it may be obvious to one of ordinary skill in

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the art to use a paper strip with a plastic strip together, there is no suggestion to attach them together using an adhesive strip.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

FEAR (U.S. 1,275,543), WOLF (U.S. 612,293), and FREDERICKSON (U.S. 443,986) all teach a ribbon coated with ignition material that may be rolled up.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MING CHEUNG PO whose telephone number is (571)270-5552. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571)272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ming Cheung Po/  
Patent Examiner

/Ellen M McAvoy/  
Primary Examiner, Art Unit 1797